

421C.2 Notice of lien in civil action.

1. When a debt obligation is owed the state, the state debt coordinator, on behalf of the state, shall have a right to a lien against all monetary claims arising from a civil action which the debtor may file against a third party. A lien under this section becomes effective once the state debt coordinator files a notice of lien with the clerk of the district court in the county where the civil action identified by the state debt coordinator is filed and sends notice of the lien to the debtor and to the debtor's attorney or other representative, if applicable. To be effective against a monetary claim, the notice of lien must be filed before a third party has concluded a final settlement with the debtor, the debtor's attorney, or other representative. The lien shall only be effective against the monetary claim in the civil action against which the lien is filed. The third party shall obtain a written determination from the state debt coordinator concerning the amount of the lien before a settlement is deemed final for purposes of this section. A compromise, including but not limited to a settlement, waiver, or release, of a monetary claim under this section does not defeat the state debt coordinator's lien except upon written agreement by the coordinator or the coordinator's designee. A settlement, award, or judgment structured in any manner that does not include a debt obligation owed the state does not defeat the state court debt coordinator's lien if there is any recovery by the debtor unless a written agreement has been entered into between the state debt coordinator or the coordinator's designee and the debtor.

2. The judicial branch shall cooperate with the state debt coordinator to determine the most efficient way to identify a debtor who has a claim against a third party. The state debt coordinator shall be provided viewing access to the Iowa court information system as provided in section 421C.1 to determine if a debtor owes a debt obligation to the state. The debtor's attorney shall not have the responsibility to notify the state that a debtor has filed a civil action against a third party.

3. The state debt coordinator's lien is valid and binding on an attorney, insurer, or other third party only upon actual notice given by the state debt coordinator.

4. An insurer or attorney representing a debtor on a monetary claim upon which the state debt coordinator has a lien under this section shall notify the state debt coordinator of a negotiated settlement or verdict, if actual notice of the lien has been provided in the following manner:

a. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the debtor and to the debtor's attorney or other representative, if applicable, at the location used for service of original notice.

b. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to a third party, at the location used for service of original notice.

5. a. Upon resolution of the civil action against which a lien has been filed and actual notice of the lien has been given, the court costs and reasonable attorney fees and expenses, hospital liens filed pursuant to chapter 582 and other subrogated medical expenses shall first be deducted from any total judgment or settlement obtained. At least one-third of the remaining balance shall then be deducted and paid to the debtor. From the remaining balance, the state debt coordinator shall have the authority to negotiate a settlement of any debt obligation owed the state that is noted in the lien, including forgiving the entire balance due, based upon the circumstances of the case, costs incurred in pursuing the matter, and the element of the damages awarded. After deducting payments in accordance with this subsection and negotiating a settlement of the lien, any payments to satisfy the lien shall be paid to the state debt coordinator. The state debt coordinator shall transfer any moneys collected to the appropriate accounts to satisfy the debt owed. The state debt coordinator shall file a satisfaction of the lien in the civil action if the state debt coordinator, pursuant to this subsection, settles any part of the debt obligation owed the state.

b. In circumstances where a lien encompasses multiple claims by state entities, the priority of payment made to the state debt coordinator shall first be a credit against tax due as provided in section 422.73, and the remaining balance shall be distributed in accordance with section 8A.504, subsection 3.

c. During the negotiation process pursuant to this section the state debt coordinator shall make a determination whether the amount to be received by the coordinator under

paragraph “a” shall be considered as full payment of the debt obligation owed the state. If the state debt coordinator settles any debt obligation owed the state that is for less than the actual amount owed the state, the state debt coordinator may determine that the debt obligation owed the state is paid in full. If settlement is reached that is for less than the amount of the debt obligation owed the state, and the state debt coordinator notifies the applicable state department, agency, or branch that the debt obligation is paid in full, the state department, agency, or branch receiving the notification shall indicate in the records of the state department, agency, or branch that the debt obligation owed the department, agency, or branch is paid in full.

6. Except as provided in subsection 7, the state debt coordinator may enforce its lien by a civil action against any liable third party if a judgment or settlement was paid to the debtor without notifying the state debt coordinator as provided in this section.

7. An insurance company that makes a payment to the debtor or the debtor’s attorney in a civil action that is subject to a lien under this section shall have no further liability for the lien filed in the civil action.

8. As used in this section, unless the context otherwise requires:

a. “*Insurance company*” means an insurer organized or operating under chapter 508, 514, 514B, 515, 518, 518A, 519, or 520, or authorized to do business in Iowa as an insurer or an insurance producer under chapter 522B.

b. “*Third party*” means an individual, institution, corporation, or public or private agency which is or may be liable to pay all or part of a debtor’s monetary claim. “*Third party*” does not include a financial institution as defined in section 527.2.

2010 Acts, ch 1146, §10; 2010 Acts, ch 1193, §52

Referred to in §421C.1